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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,433	11/20/2000	Lou Leonardo	2043.023US1	9413
49845	7590	05/08/2007		
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER KESACK, DANIEL	
			ART UNIT 3691	PAPER NUMBER
			NOTIFICATION DATE 05/08/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWK.COM

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/717,433		LEONARDO ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Dan Kesack		3691	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. Amendment filed January 22, 2007 has been entered and fully considered.

Claims 1-27 are currently pending. The rejections are as stated below.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 4, 5, 8, 11, 12, 15, 18, 19, 21, 24 and 25 remain rejected under 35 U.S.C. 103(a) as being unpatentable over SquareTrade, in view of eBay's "Feedback Forum", herein referred to as "eBay", as cited in the previous Office Action.

4. Claims 2, 3, 9, 10, 16, 17, 22, and 23 remain rejected under 35 U.S.C. 103(a) as being unpatentable over SquareTrade and eBay, and further in view of UAUTOBID.com, Inc., Introduces the Capability to Purchase Specific Vehicles Online, herein referred to as "UAUTOBID", as cited in the previous Office Action.

5. Claims 6, 13, 20, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over SquareTrade and eBay, and further in view of Esposito, U.S. Patent No. 6,587,838, as applied in the previous Office Action.

### ***Response to Arguments***

6. Applicant's arguments filed January 22, 2007 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that eBay does not suggest or teach all of the recited elements of independent claims 1, 8, 15, 21 specifically "updating a record associated with the party if the complaint is not resolved, the record indicating a count of failed transactions related to the party." Examiner respectfully disagrees.

The eBay reference is a "frequently asked questions" webpage related to a feedback rating system. As described, the feedback rating of a user is a point balance of comments left about a user by other eBay members involved in auctions with the user. Under the feedback rating system, a user receives +1 point for each positive comment, and -1 point for a negative comment. The reference describes the operation on page 3, "If you were treated poorly, try to resolve the problem first by contacting the other person... If things are still not resolved, you may leave a negative comment."

Taking this into consideration, according to the feedback system, if the problem is not resolved, the user updates a record (feedback rating) associated with the party (user), wherein the record *indicates* a count of failed transactions related to the party. The fact that the feedback rating, or record, is not simply a discrete count of failed transactions does not distinguish the claim language over the prior art reference. The "record" of the eBay reference does, in fact, indicate a count of failed transactions. The eBay reference teaches that the record can be accessed in order to view all feedback that a user has received (page 2). According to this teaching, a user may view the complete record of another user, wherein the complete record indicates failed transactions associated with the user, denoted by "negative comments" left about the user.

Therefore, Examiner respectfully maintains that the eBay teaches "updating a record associated with the party if the complaint is not resolved, the record indicating a count of failed transactions related to the party."

Applicant argues that the webpage from eBay (the eBay reference) does not include text that describes a count of failed transaction related to a party. When the eBay reference is considered, as a whole, the limitation is taught therein, as described above.

Furthermore, Applicant contends that eBay illustrates a web page that includes text stating that only a seller and a successful bidder can leave transaction-related feedback about a specific buy or sell transaction. Examiner is of the opinion that Applicant has incorrectly categorized the cited reference in stating that eBay requires a completed transaction before the seller or successful bidder may leave transaction related feedback. According to the teaching, all that is required is a seller and a successful bidder. One of ordinary skill in the art can appreciate that a successful bidding alone does not constitute a *completed transaction*, and that a successful bidder may very well be involved in a failed transaction with a seller.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Kesack whose telephone number is 571-272-5882. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HANI M. KAZIMI  
PRIMARY EXAMINER